

**UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF OHIO**

In Re:

Michael and Elizabeth McGarity

Debtor(s)

Michael and Elizabeth McGarity

Plaintiff(s)

v.

Franklin Credit Management Corp.

Defendant(s)

**JUDGE RICHARD L. SPEER**

Case No. 09-3300

(Related Case: 93-30636)

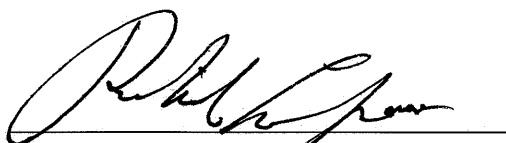
**DECISION AND ORDER**

On December 1, 2009, the Plaintiffs, Michael and Elizabeth McGarity, commenced this action against Franklin Credit Management Corp, asserting in their complaint two causes of action: (1) Contempt and Sanctions for Violation of the Discharge Injunction; and (2) a Violation of the Fair Debt Collection Practices Act. In their complaint, the Plaintiffs set forth a “demand that a jury be impaneled to hear all of their claims[.]”

The Plaintiffs are debtors before the Court, having filed a voluntary petition for relief under Chapter 7 of the United States Bankruptcy Code. Debtors, who voluntarily submit themselves to the equity jurisdiction of the bankruptcy court, have no right to have matters heard before a jury. *In re McLaren*, 3 F.3d 958, 960 (6<sup>th</sup> Cir.1993), citing *Granfinanciera v. Nordberg*, 492 U.S. 33, 109 S.Ct. 2782, 106 L.Ed.2d 26 (1989). See also *In re Glenn*, 359 B.R. 200 (Bankr. N.D.Ill. 2006) (creditor did not have right to jury trial on claim for money damages for violations of automatic stay). It is therefore

**ORDERED** that the jury demand made by the Plaintiffs is hereby Stricken from their Complaint.

Dated: December 4, 2009



Richard L. Speer  
United States  
Bankruptcy Judge

## ***CERTIFICATE OF SERVICE***

Copies were mailed this 4<sup>th</sup> day of December, 2009 to:

Franklin Credit Management Corp.  
101 Hudson St. 25th Floor  
Jersey City, NJ 07302

Elizabeth G. McGarity  
543 Jacqueline Court  
Holland, OH 43528

United States Trustee  
Howard M. Metzenbaum U. S. Courthouse  
201 Superior Avenue, East  
Suite 441  
Cleveland, OH 44114

Norman A Abood  
Law Office of Norman Abood  
203 Fort Industry Square  
152 North Summit Street  
Toledo, OH 43604-2304

Michael J. McGarity  
543 Jacqueline Court  
Holland, OH 43528

/s/Dawn Serna-Gensch  
Deputy Clerk, U.S. Bankruptcy Court